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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,168	06/22/2006	Eric Labarriere	12928/10035	4749
23280	7590	11/03/2008		
Davidson, Davidson & Kappel, LLC			EXAMINER	
485 7th Avenue			PALABRICA, RICARDO J	
14th Floor				
New York, NY 10018			ART UNIT	PAPER NUMBER
			3663	
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			11/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/584,168

Applicant(s)

LABARRIERE ET AL.

Examiner

Rick Palabrica

Art Unit

3663

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24 and 26-46 is/are pending in the application.
- 4a) Of the above claim(s) 29, 38 and 41-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24, 26-28, 30-37, 39 and 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's 8/1/08 Amendment, which directly amended claims 24, 26, 36, 37, 39, and 40, canceled claim 25 and traversed the rejection of claims in the 4/3/08 Office action, is acknowledged.

Applicant's arguments have been fully considered but they are not persuasive.

Response to Arguments

2. Applicant traversed the rejection of claims based on applied art, Christiansen et al. on the ground that the reference, "fails to teach or show 'wherein the noses converge in a direction that is orientated towards an outer side of the fuel assembly,' as recited in claim 24." The examiner disagrees.

As stated in section 3 of the 4/3/08 Office action, applicant's claim language, "noses", reads on the vertical extensions of support housing 50 of Christiansen et al. Note from Fig. 6 that these noses are chamfered or sloped in the downward direction, i.e., towards the bottom end the fuel assembly comprising fuel rods 48.

The claim recites the direction of orientation as being towards "an outer side" of the fuel assembly. As presently set forth in the claims, there is not one, unique outer side of the fuel assembly, as evidenced by the use of the article "an". The Federal Circuit could not have been clearer on this matter when it cautioned:

"This court has repeatedly emphasized that an indefinite article 'a' or 'an' in patent parlance carries the meaning of 'one or more' in open-ended claims containing the transitional phrase, 'comprising,'" KCJ Corp v. Kinetic Concepts, Inc., 223 F.3d 1351, 1356 (Fed. Cir. 2000).

Thus, the bottom end of the fuel assembly in Christiansen et al. is an outer side of their fuel assembly. Accordingly, the noses in Christiansen et al., which converge in a direction downwards towards the bottom of the fuel assembly, are "orientated towards an outer side of the fuel assembly", contrary to applicant's allegation.

3. Applicant appears to traverse applied art, Grattier, on the same ground as Christiansen et al. The examiner disagrees.

As stated in section 3 of the 4/3/08 Office action, applicant's claim language, "noses", reads on the walls forming the apertures of filter plate 6, which apertures are disposed below the rods and guide tubes 8, as shown in Figs. 1, 5 and 8. Again, these walls have a vertical or downward slope and therefore oriented in a direction away from the fuel assembly. For the same reasoning as in Christiansen et al., the noses in Grattier meet the claim limitation, contrary to applicant's allegation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 24, 26 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by either one of Christiansen et al. (U.S. 5,533,078) or Grattier (U.S. 5,180,545).

The reasons are the same as those stated in section 3 of the 4/3/08 Office action, as further clarified in sections 2 and 3 above, which reasons are herein incorporated.

5. Claims 28, 30, 37 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Christiansen et al.

The reasons are the same as those stated in section 4 of the 4/3/08 Office action, as further clarified in sections 2 and 3 above, which reasons are herein incorporated.

6. Claims 27, 32, 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Grattier.

The reasons are the same as those stated in section 5 of the 4/3/08 Office action, as further clarified in sections 2 and 3 above, which reasons are herein incorporated.

7. Claims 31, 33, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Grattier, who discloses an endpiece comprising two components, one of which is a debris filter, i.e., adaptor plate 2 and debris filter 6 (e.g., see Fig. 1).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick Palabrica whose telephone number is 571-272-6880. The examiner can normally be reached on 6:00-4:30, Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 29, 2008

/Rick Palabrica/
Primary Examiner, Art Unit 3663